

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Merle T. Pederson,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0340
Parcel No. 010/01914-001-000

On March 20, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Merle T. Pederson was self-represented. County Attorney David Hibbard represented the Board of Review. The Appeal Board, having reviewed the record, heard the testimony and being fully advised, finds:

Findings of Fact

Merle T. Pederson is the owner of a residentially classified property located at 2840 Druid Hill Drive, Des Moines, Iowa. The property is a one-story, town-home-style condominium built in 1998. It has 2501 square feet of total living area and a full basement with 2000 square feet of living-quality finish. It also has a deck, patio, open porch, and a two-car attached garage. It is listed as a 1+00 grade.

Pederson protested to the Board of Review regarding the 2013 assessment of \$434,700, allocated as \$35,000 in land value and \$399,700 in improvement value. He claimed the assessment was not equitable as compared to other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). He asserted the correct total value was \$370,000. The Board of Review denied the appeal.

Pederson then appealed to this Board reasserting his claims.

Pederson listed four properties on his protest that he asserts show the subject is inequitably assessed. The following chart summarizes the properties.

Address	GLA	Bsmt Fin	Year Built	2013 AV	Sale Date	Sale Price	Grade
Subject Property	2501	2000	1998	\$434,700	Oct-12	\$370,000	1+00
3814 Park Ave	2265	1600	1999	\$372,700	Apr-12	\$389,000	2+05
2814 Druid Hill Dr	2187	1134	2010	\$389,300	Feb-13	\$404,170	2+10
1956 Park Ave	2000	1500	2011	\$384,200	May-13	\$374,550	2-05
2870 Druid Hill Dr	2501	2000	1999	\$439,000	May-13	\$310,580	1+00

With the exception of 3814 Park Avenue, all of the properties Pederson submitted have a lower quality grade, smaller above-grade living area, and less basement finish than the subject property. Despite these differences, they are all similar town-home style properties in the subject's development or competing locations and appear reasonably similar to the subject property. Although these properties appear reasonably similar, to show inequity in the assessment typically an assessment/sales ratio must be calculated. To complete this analysis prior year sales (2012) are compared to current (2013) assessments. In this case, only 3814 Park Avenue sold in 2012, and more than one comparable property is required to support an equity claim.

The remaining properties sold in 2013 and therefore would not be considered for an equity analysis. Additionally, 2870 Druid Hill Drive, which is the most similar in size, basement finish, and grade, sold as the result of foreclosure; therefore, it would not be considered an arm's-length transaction for assessment purposes.

Pederson purchased the subject property in October 2012 for \$370,000. Pederson's position is that the assessed value should not exceed the sales price, which he asserts represents an arm's-length transaction between a willing buyer and a willing seller. While the sales price may be taken into consideration, we do not find that it conclusively establishes market value.

Pederson also provided an appraisal of the subject property, which was completed for financing of the purchase. The appraisal was done by Molly Shafer of Shafer Appraisal, LLC, West Des Moines, Iowa. (Exhibit F). Shafer relied solely on the sales comparison approach and concluded a value opinion of \$410,000, as of October 2012.

Shafer included four sales and an active listing in her analysis. Two sales and the listing are located in the subject's development. After adjusting the comparable properties for differences, Shafer determined the sales indicated a range of value from \$408,000 to \$462,010, with a median adjusted value of \$446,235. Shafer makes the following statement in her report: "all sales weighted in the final analysis." But, Shafer then concludes a value for the subject property at the lowest end of the range. We find Shafer's statement that she gave weight to all of the sales appears contradictory to her conclusion. Furthermore, three sales had both unadjusted and adjusted prices greater than Pederson's current assessment. We also note Sale 4, which is the most similar to the subject, sold for \$459,900, and Shafer adjusted it to \$449,900. Because the majority of sales indicate a value higher than Shafer's conclusion, and the sale most like the subject is higher than the conclusion, we decline to rely on the appraisal as a reliable indicator of value for the assessment.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the Polk County*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Pederson’s evidence did not establish inequity in the assessment under either test.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, Pederson asserts he purchased the property in an arm’s-length transaction, and therefore, the assessed value should be no more than what he paid for the property. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market

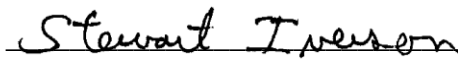
value. §441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. The record also includes an appraisal completed by Molly Shafer with an effective date of October 2012. Shafer appears to consider a single sale with an adjusted value of \$408,000; however, three of the four sales have unadjusted and adjusted prices greater than Pederson's 2013 assessment. Moreover, the most similar adjusted sales price is \$449,900. Therefore, we find the preponderance of the evidence does not suggest the subject is assessed for more than market value as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013 assessment of Merle T. Pederson's property located at 2840 Druid Hill Drive, Des Moines, Iowa, as set by the Polk County Board of Review is affirmed.

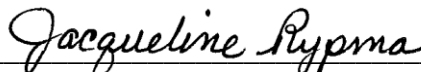
Dated this 7th day of April 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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